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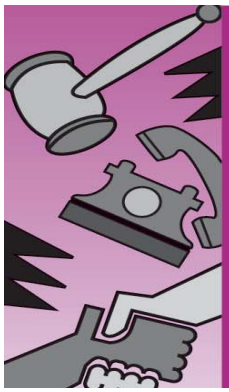
ocAdvocate

OFFICE OF CRIME VICTIMS ADVOCACY
QUARTERLY NEWSLETTER

Serving as a voice within state government for crime victims and their families



Should Legislation Be Based on Brain Development Research?

** In this article, actual cases have been used to illustrate some of the application for EHB 1187. Names have been changed and identifying information removed, as much as possible.*

In the 2005 session, the Legislature passed EHB 1187. This bill eliminated mandatory minimum sentences previously applied to juvenile offenders whose cases were declined in Juvenile Court. Such declined cases meant the juvenile was prosecuted as an adult. In the bill, the Legislature finds that adolescent brains, their intellect and emotional capabilities, are significantly different from the adult brain. Therefore, applying a mandatory minimum sentence to juveniles tried as adults prevents trial judges from taking these differences into consideration in appropriate circumstances. The passage of this bill has created, for the first time, a way for judges in adult courts to consider the age of an offender when determining a sentence. The law is based on, among others, recent research by Jay Giedd, a neuroscientist at the National Institute of Mental Health, into adolescent brain development that suggests our brains continue to develop until approximately age 25.

Previously, it was thought that the majority of brain growth was completed by the time a child was age five or six. Through Giedd's studies, this notion was expanded and hypothesizes that the prefrontal cortex of the brain grows again just before puberty (in girls age 11 and boys age 12). The prefrontal cortex is responsible for planning, organizing, memorizing, and modulating mood. As the brain matures, it develops more control over impulses, judgments, and reasoning. The intimation behind this research is that an under-developed prefrontal cortex may explain adolescent risk taking behavior. But should these findings influence statutes and legislation?

Experts in child development and neuroscience agree that the research results do indicate that the various parts of our brain mature more at different times. However, Jack Shonkoff, professor of child development at Brandeis University and author of *From Neurons to Neighborhoods*, and John Bruer, the president of the James S. McDonnell Foundation, say that more work needs to be done in this area before it is labeled as science and used to change policies.

Brief History of Juvenile Systems

Throughout history, it has been recognized that juveniles lack moral maturity. As a result, this lack of maturity has been used as a mitigating factor in

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sentencing and seen as a form of diminished capacity. To accommodate juveniles' immaturity, the criminal justice system created an alternative system to rehabilitate juvenile offenders—rather than punish them.

In the 80's and 90's the violent crime arrests for juveniles of all ages increased at an alarming rate. According to FBI reports, the arrests of youths under age 15 for violent crimes grew 94 percent from 1980-1995, twice as fast as violent crime arrests for 15, 16 and 17 year olds. Juveniles committing murders peaked in 1993 when there were approximately 3800 juvenile arrests for murder in the U.S. Washington state's juvenile crime rate displayed similar trends in that time period. The arrest rates reached a high of 94.9 arrests per thousand juveniles aged 10-17 in 1990. Juvenile Court referrals increased steadily each year from 1987 to 1992, at a rate of approximately three percent per year. Juvenile arrests for murder and non-negligent manslaughter jumped 617%, from only six arrests in 1984 to forty-three in 1996. The highest point for our state was set in 1994 with forty-eight arrests.

In response to these trends, 45 states (including Washington) created new laws, penalties, and reforms to hold juvenile offenders more accountable for serious offenses by making their sentences conform to adult criminal standards. Most of the newly enacted laws for juvenile offenders allowed courts to impose juvenile and/or adult court sentences (known as "blended" sentences). This gave judges options to create sentences that are more offense-based and take into consideration individual factors along with the current crime. With changes in the laws, prosecutors have been given wide discretion in deciding which cases to try in adult or juvenile court. Also, judges have been given the power to decide if juveniles will be incarcerated in an adult facility.

The significant impact of this type of legislation is demonstrated across the U.S. in the number of juveniles incarcerated in adult facilities. By 1998, approximately 7,000 juveniles had been admitted to adult prisons—up from 3,500 in 1985. Today, on any given day in the U.S. one in ten juveniles will be sent to an adult facility. In Washington State, there are 204 prisoners serving sentences for murders they committed before they were 18. Therefore, a system focused more on punishment and retribution has developed, rather than the intended rehabilitation.

Pro:

Kate, age 13, and four other juvenile offenders ranging in age from 11 to 17, were convicted in Washington State in 2002 for the brutal murder of Ray. Kate's mother, Linda was the hired caretaker for Ray's mother who was suffering from dementia. At Linda's design and encouragement, these juveniles laid in wait for Ray to return home one night, attacked and murdered him. They then dumped his body in a field where they poured chemicals over his face and hands in an attempt to prevent identification of his body. They stole his credit cards, checkbook, and money, leaving his elderly mother alone to fend for herself.

The oldest of the offenders, age 17, was automatically declined to adult court because of the

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Assistance with Immigration Questions for STOP programs

ASISTA (Advanced Special Immigration Survivors Technical Assistance) is an exciting new project providing technical assistance on questions about immigration cases for domestic violence and sexual assault survivors. Services are free of charge.

Assistance is offered exclusively to grantees of the Office on Violence Against Women (OVW) including recipients of state STOP grants. Consultants are available to troubleshoot problems with certain individual immigration cases and the Department of Homeland Security.

If your organization receives grant money from OVW or the STOP program go to www.asistaonline.org and click on the "Register" link. Once your organization has registered, send technical assistance inquiries by email to questions@asistaonline.org. You may also request technical assistance through the ASISTA website.

ASISTA also offers resources and information to the public at www. asistaonline.org.

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charge (First Degree Murder), and his age. Kate and the three other offenders all underwent decline hearings to determine whether Juvenile Court would retain jurisdiction. In Kate's case, several experts were called to testify regarding long-term instability in her childhood and abuse at the hands of her mother Linda. They cited that despite these hardships, she was a straight-A student and excelled in sports. These experts also testified that adult prison was not the answer for her, claiming that the juvenile justice system that focuses on rehabilitation, would best prepare Kate for her return to society as an adult at age 21. The judge did not agree. He declined her case to adult court where she ultimately pleaded guilty to First Degree Murder and is currently serving her confinement at a juvenile detention facility, until age 18. At that time, she will be transferred to the adult women's correctional facility to serve out the remainder of her 22-year sentence. She will be released when she is age 35.

Mark your calendar!

OCVA Conference

Intersections of Crime
Crossroads of Advocacy

October 18-21, 2005
Dolce Skamania Lodge
Stevenson, WA

Check out our website at
www.ocva.wa.gov
for more details!

Those who supported this bill looked to cases such as this one and urged legislators that juveniles should not be treated as harshly as adults. They cited the research findings on brain development in adolescents, using them to convince legislators that judges should have the ability to adjust criminal sentences for juveniles sent to adult court for less than the mandatory minimum currently in place for serious violent offenses.

At a Decline Hearing, a judge must weigh the eight "Kent factors" to determine whether or not a juvenile should be sent to adult court:

- Seriousness of the offense
- Whether the offense was committed in an aggressive, violent, premeditated or willful manner
- Whether the offense was committed against property or persons
- The prosecutive merit of the complaint
- Whether there are adult co-defendants that should be tried with the juvenile
- The sophistication and maturity of the juvenile
- The record and prior criminal history of the offender
- The prospects for adequate protection of the public and reasonable rehabilitation of the juvenile by the use of procedures
- Services and facilities currently available to the Juvenile Court.

Another reason proponents cited for this needed change in statute was the huge disparity between the sentence that a youth prosecuted in Juvenile Court will receive, as opposed to a youth whose case has been declined and sent to the adult court. For example, in the "Ray" murder case, George, the 11-year-old offender, was retained in the Juvenile Court after the judge decided he did not meet the Kent factors. He pleaded guilty to First Degree Murder and will be held in a Juvenile facility until he reaches age 21. He will serve a ten-year sentence, which is much less than Kate's 22-year sentence.

Tom McBride, Executive Secretary of the Washington Association of Prosecuting Attorneys, who also supported the bill, expressed relief that prosecutors will be taken out of an "all or nothing" situation in the small percentage of cases that will be affected. He stated, "Until now, Juvenile Court judges were somewhat reluctant to decline cases to adult court because of the probability of mandatory minimum sentences being imposed on young offenders." This statement is supported by statistics from King County showing that in 1995 and 1996, 411 decline hearings were held; yet only 26 or 6% of those cases were sent to adult court.

Those who support the bill testified, "The mandatory minimum sentence law was enacted to deal with adults, not juveniles. Twelve-year-old children are being tried as adults, and they could receive 20 years in prison as a minimum sentence. Though they

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(Brain Development, continued from page 3)

should be held accountable, mitigating circumstances should be considered. The standard of proof is lower in a decline hearing, so it does not take as much to have a juvenile sent to adult court. If a juvenile does not have competent representation, he or she may end up being sent to adult court when it is not the best decision. It is important to give judges discretion in these kinds of cases. The bill doesn't change the law. It only allows judges to give a standard range sentence unless there are exceptional circumstances. It doesn't affect past sentences, only future sentences. This will only be used in a very few cases, one to two that come up every year."

Con:

Ralph, age 12, was murdered in Washington a year ago. The two twelve- year- old juveniles accused of his murder, Ned and Shawn, were declined in Juvenile Court because of the heinousness of the crime. They are presently awaiting trial. The case has received a great deal of attention by the media because of the young age of the offenders and victim, as well as the mental culpability of the offenders. This particular case was the impetus behind the creation of EHB 1187.

When Jenny Wieland, Executive Director of Families and Friends of Violent Crime Victims, was asked to comment on the passage of this proposal, she stated "If you are victimized in Washington State, hope it's by an adult and not a juvenile. When the original bill (creating automatic declines and longer sentences for juveniles) was passed in the mid-90's, it was a thoughtful bi-partisan process. It took several months to get it all through the conference committees, etc. This new legislation- repealing mandatory minimums- was a knee-jerk reaction to one case in eastern Washington, and of course, it was in favor of the offenders, not the victim who was murdered."

While this bill was being debated during the past legislative session, victims, survivors and their advocates were not consulted, nor invited to comment on the bill. When Betty Sorber, one of the victim's grandmothers, became aware of this proposed legislation, she began contacting legislators urging them to vote against it. Her efforts did not defeat the bill, but did cause the retroactivity of the bill to be eliminated. Because of her efforts, the statute will only apply to juveniles who commit these crimes after July 24, 2005. However, she is still angered that the Legislature passed the bill, stating that "This law does not consider victims or their survivors at all. My grandson is no less dead because he was murdered by juveniles".

Another argument against this bill is that there already exists a process to weed out juveniles not sophisticated or worthy of punishment in the adult courts. George Appel, a Deputy Prosecuting Attorney in Snohomish County stated, "The aspects of brain development in juveniles have already been considered in the law." This process, which has been in place in every state since 1968, is called a Decline Hearing.

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CRIMES AFFECTED	COURT OF JURISDICTION	SENTENCE
• First Degree Murder • Second Degree Murder • Robbery • Burglary in the First Degree • Rape of a Child in the First Degree • Drive By Shooting • Any violent offense committed after 7/1/97 and allegation juvenile was armed with a firearm	**For juvenile offenders ages 16-18:** Automatic decline to Adult Court. **For juvenile offenders age 15 and under:** Decline Hearing must be held in Juvenile Court.	• Mandatory minimums apply- judge could go higher • No exceptions to go below standard mandatory minimum sentence **If juvenile offender is declined and sent to Adult Court:** • Could face the mandatory minimum for adults **OR** • Judge could sentence to less than the mandatory minimum, if mitigating circumstances exist.

(Brain Development, continued from page 4)

Ida Ballasiotes, former State Representative and now Board Vice President for Families and Friends of Violent Crime Victims similarly opposed passage of this bill stating, "This bill is a slap in the face to victims. Why must they continue to be victimized, not only by the offenders but by the Legislature? There are always two elements in a crime, the criminal and the victim…only the victims are not taken into consideration. We know their brains aren't 'right'…too bad some lawmakers can't figure it out. Perhaps their constituents will."

Remaining Questions

Legislation was passed in the 1990's that responded to the emerging problem of juveniles committing much more severe and violent crimes than ever before. The legislation was designed to hold juvenile offenders more accountable according to the severity of crime committed, and was based on the juvenile offender's sophistication and prior criminal record. Since the passage of those laws, the juvenile crime rate has declined significantly. We have been witness to the creation of mental health courts, drug courts, domestic violence, and family law courts. Each was established to enable judges to focus exclusively on the particular aspects, unique dynamics, and problems exclusive to each specialty area. EHB 1187 is meant to provide a mechanism for judges to consider the mitigating circumstances of cases involving juveniles convicted as adults.

George Appel, the Deputy Prosecutor from Snohomish County, suggests that our Legislature could just as easily have dealt with this very issue by following suit with Connecticut—a state that raised the maximum age for an offender to be held at a juvenile facility from age 21 to 25. Because of Connecticut's actions, we wonder if the extent of possible solutions were sought—and the input of all affected considered.

At OCVA, we acknowledge that it is difficult to take a position on this issue that satisfies the needs of victim/survivors, prosecutors, and those who advocate that juvenile offenders must be treated fundamentally different by virtue of their age, rather than the dynamics of the crime they committed. Victim/survivors want justice for those who have been kidnapped, murdered, raped, and battered. Prosecutors want to try cases and see flexible sentences that allow for more than two extreme options. Those advocating for juvenile offenders testified, "Judges should be able to use their discretion, and take into account current science on brain development, in cases involving youth who would otherwise be subject to mandatory minimum sentences."

As with many issues affecting victim/survivors of crime, there is more than one side, opinion, perspective, and correct answer. Had a group of advocates, prosecutors, policy makers, and others promoting the EHB 1187 been organized, there would have been better opportunity to ask questions about the validity of research by Giedd and others. According to a recent exploration of this very topic on PBS, Shonkoff and Bruer, have both spoken out against using such research to develop policies…"This simple, popular, newsweekly-magazine idea that adolescents are difficult because their frontal lobes aren't mature is one we should be very cautious of… this notion there's going to be some easy connection between counting synapses or measuring white matter and the kinds of behaviors people display or we want them to display is one we're going to have to do a lot more work on before it's science."

All voices must be heard as policy decisions are being made. Policy decisions cannot be made based on one opinion or a single interpretation of potential and actual effects, particularly when these decisions impact victim/survivors, prosecutors, juvenile offenders, and the community at large. It is critical that we continue to build alliances as advocates for improvements in the criminal justice system and community safety. Coalitions of individuals and professionals with differing opinions have the potential for producing policy recommendations and legislation that will advance Washington State and the needs of all its citizens.

Farewell, Peggy!

Peggy Thompson, Executive Director of the Domestic Violence and Sexual Assault Program of Jefferson County retired on July 1, 2005 after 11 years as ED and 14 years with the agency.

Finally, she will have time to travel with her husband and visit with her family and will never have to worry again about whether her data is in on-time.

Shetty to Receive 2005 NALP Award of Distinction for Public Service

Sudha Shetty, Director of University of Washington's Access to Justice Institute, has been selected to receive the 2005 NALP Award of Distinction for Public Service. NALP is the National Association for Law Placement. According to the chair of the selection committee, Shetty was selected for the award "in recognition of [her] work with the Access to Justice Institute, and [her] cooperative work with community-based legal organizations and in-house legal service projects, which are dedicated to the promotion of the public good."

Director of Spokane's Partners with Families and Children Receives Recognition at National Children's Conference

Mary Ann Murphy, Executive Director of Partners with Families and Children in Spokane, received one of two sixth annual Lee Ann Miller Awards during the March Children's Justice Conference at the Seattle Trade and Convention Center. The awards are presented by DSHS every year to an individual or group that has made a profound impact on promoting the safety, protection, and well-being of children, and are presented in honor of former Washington State Attorney General Lee Ann Miller.

Preservation of Privacy

The following is a letter sent by Washington Coalition of Sexual Assault Programs' Executive Director Suzanne Brown-McBride to WCSAP's membership lamenting the failure of the legislature to pass HB 1757, which would have protected the privacy rights of sexual assault victims. The disappointment and frustration that many of us felt about the media's successful opposition to this bill are eloquently expressed in Suzanne's own words, below:

Today we received information from the State House of Representatives that they would not concur to an amendment to 2SHB1757 related to sexual assault victim privacy. The result of this action creates access to documents that, to date, have never been available to the media and the pubic. The documents in question were Law Enforcement Bulletins that were created for the express purpose of sharing information with law enforcement agencies about the sexual offenders that were being released in their jurisdiction.

Throughout this debate, many representatives of the media have cast this as a fight between what the public deserves to know, and what government is trying to hide. This couldn't be further from the truth. This is a debate about how to preserve what little privacy we can for victims related to their experiences of sexual violence. Nothing in this legislation stops appropriate information about sex offenders from reaching the public.

Many in the media also tried to claim this information was available through other sources – this is also not the case. Portions of the information in these documents were culled from other confidential records in an attempt to promote positive, multidisciplinary collaboration – not public dissemination.

The plain truth is this – these bulletins do not contain information that makes it easier for members of the general public to prevent a sexual assault. Members of the community do not need to know the explicit, blow by blow details of how a child is raped to be adequately informed about the risk an offender poses to the community. These children, women and men live in our communities and now face the reality that these bulletins, created for law enforcement, can be requested by and disseminated to anyone. While victims names may be redacted, the vast majority details of their assault will not be – nor will the names of any unadjudicated victims an offender may have confessed to assaulting during their incarceration.

When victims, advocates and policy makers passed the Community Protection Act in 1990 they recognized the importance of keeping the community informed about sex offenders, but they also knew the importance of making sure that information released was "necessary and relevant" (RCW 4.24.550) – which is why some information is shared with law enforcement agencies and not with the public. As a community of those concerned about victims, we created Community

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(Preservation of Privacy, continued from page 6)
Notification to be the mechanism that would inform the public about offenders. We have also worked hard with law enforcement to create an atmosphere of education at these meetings so that community members would know their options, and not simply be terrified. Now, that ground-breaking system that we have worked so hard to create is being undermined by public disclosure requests for documents that were never intended for this purpose.

What saddens me deeply is that the media have been consistently and constantly invited to work with communities to make Community Notification a success. Television stations, print media and radio outlets routinely receive notices about community notification meetings – and rarely, if ever, choose to attend. I challenge them to stand behind their public declarations of 'no more victims' and demonstrate that they are not just in this for the ratings, and that rape victims are not just another spectacle for sweeps week. My most sincere hope is that this debate about disclosure creates more genuine dialogues about how each of us can truly make a difference.

Despite this track record, I still firmly believe that the media can be powerful allies on behalf of victims. I would like to encourage all of you to think about the media outlets near your programs and make an effort to reach out and educate them about the victims you serve, the laws you have worked to enact and the futures we envision for a world without violence. It is clear that there is a huge gap in understanding, because we as advocates know that it is possible to stop rape without placing the bulk of that burden on the backs of victims.

It is ironic that this setback occurs on Sexual Assault Awareness Week, but perhaps this also presents the ultimate awareness opportunity. That, I think, is the challenge for us as advocates.

I would also like to thank the advocates, victims, law enforcement officers, prosecutors, policy makers, legislative staff, and state government officials for supporting this work and took the time to read beyond the sound bites and understand the dynamics of this complex issue. You make all the difference.

Thank you – our work continues,
Suzanne Brown-McBride
Executive Director, WCSAP

U.S. SUPREME COURT RULING A SETBACK FOR DOMESTIC VIOLENCE VICTIMS

Jessica Gonzales sought relief from the courts by suing the Castle Rock, Colorado Police Department for failing to enforce a restraining order against her violent ex-husband. The U.S. Supreme Court has ruled that victims do not have a right to sue if the local government fails to protect them and their children from batterers.

In 1999, Jessica Gonzales called the police department repeatedly to report that her husband had kidnapped her daughters. Simon Gonzales later walked up to the police department and became involved in a shoot out where he was killed by police. Afterwards, the police found the three daughters in the back seat of the car. Simon had apparently shot them in their sleep.

The effects of this decision will be widespread. It will eliminate the ability of citizens to hold local governments responsible for damages if they fail to enforce protection orders.
"This ruling is a serious blow to victims of domestic violence who count on local police to protect them and their children," said Family Violence Prevention Fund President Esta Soler. "By refusing to hold local governments accountable for damages when they fail to enforce restraining orders, the Court is allowing gross negligence to go completely unpunished. This damaging ruling may cause more family violence victims to live in terror, and more domestic violence injuries and deaths."

To read the complete U.S. Supreme Court decision go to:
http://www.supremecourtus.gov

Privacy for justice? What price must victims pay?

This article was written by Ellen Hanegan-Cruse, Advocacy Services Coordinator at OCVA, in response to an editorial printed in The Olympian on February 20, 2005.

How much privacy must victims of sexual assault give up in order for justice to be served? Victims of sexual assaults are in a unique category of crime, because the victimization in and of itself is particularly personal and intimate. To receive justice for their victimization, victims (both children and adults) must repeatedly reveal sadistic, humiliating details to strangers, subject themselves to intrusive medical examinations for the purposes of collecting evidence, and endure cross examination at trials. According to a report called *Rape in America: A Report to the Nation* by the National Victim Center, 84% of rape victims do not report the crime to police. The most frequently cited reason for rape victims not reporting to law enforcement is because they felt the crime was a private or personal matter.[1]

Now, the media would like for lurid crime details to be revealed to them for further scrutiny. Their reasoning is that the release of this information is necessary for the public to determine, for themselves, whether the risk level classifications that are assigned sex offenders are appropriate. Recently, HB 1651 was introduced to the Legislature in response to a request by King 5 News for the Department of Corrections to release to them documentation detailing the crimes and sexual offense histories of 480 Level III sex offenders. The media believes there is a need for its oversight in determining the risk level classifications given to sex offenders, because the governmental entities responsible for this process cannot be trusted. The bill would add the End of Sentence Review to the list

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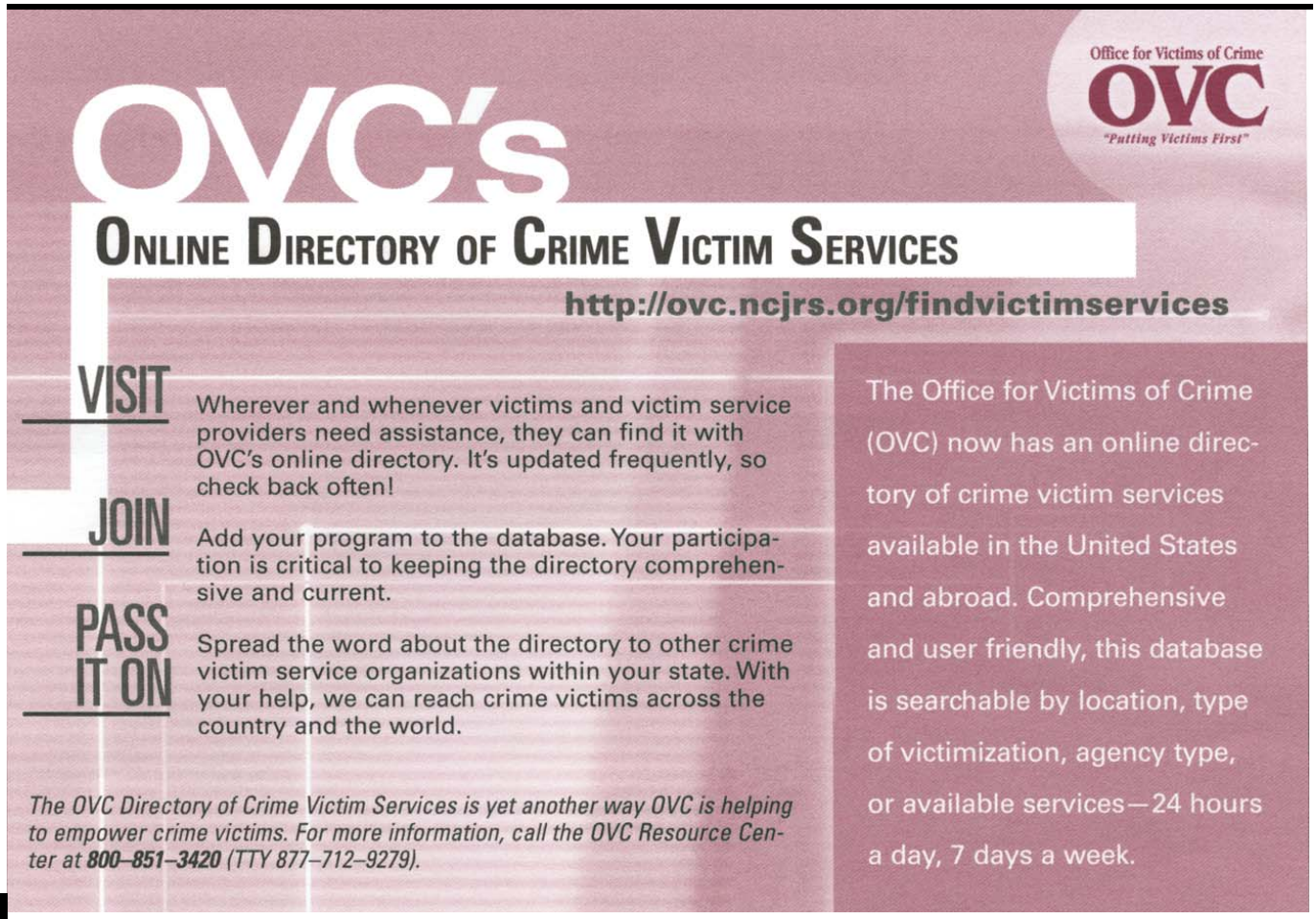
Providers: Be sure to check and see if your organization is listed and up-to-date in the Online Directory of Crime Victim Services at http://ovc.ncjrs.org/findvictimservices



(Privacy for Justice, continued from page 8)
of those agencies protected from public disclosure requests. The work product of the End of Sentence Review Committee contains confidential, identifying information of victims, as well as personal statements detailing the crime and its effects upon them.

In response, we would like to remind the media of the Community Protection Act of 1990. At that time, Washington State's Legislature, together with the combined expertise of individuals in the fields of victimization, sex offender treatment, law enforcement, and other criminal justice staff, was the first in the nation to create a process whereby communities could be notified of the release of sex offenders into their communities as a means to protect themselves.

The Act created a process authorizing law enforcement "to release information to the public regarding sex offenders when the agency determines that disclosure of information is relevant and necessary to protect the public and to counteract the danger created by the particular offender." The Legislature also determined that "the extent of the public disclosure of relevant and necessary information shall be related to: (a) the level of risk posed by the offender to the community; (b) the location where the offender resides, intends to reside, or is regularly found; and (c) the needs of the affected community members for information to enhance their individual and collective safety." It provides for a model policy that will "include procedures for ensuring the accuracy of factual information contained in the notification documents, and ways of protecting the privacy of victims of the offenders' crimes."[2]

The statute created several layers of oversight in setting the community risk levels for sex offenders:

1) The Department of Corrections created a Community Protection Unit that employs the skills of specialists whose sole responsibility is to apply research-based risk assessment tools to each offender. The tool predicts the likelihood of re-offense for an offender and places him/her into a Level I, II, or III category of notification to the public.

2) The End of Sentence Review Committee subsequently reviews and scrutinizes the classification level placed on an offender. The committee is comprised of numerous professionals from the mental health, victim advocacy, sex offender treatment, and corrections fields. This committee's combined knowledge and expertise results in lengthy discussions and debate regarding the unique aspects of each case. This results in a detailed summary of the offender's particular characteristics which includes a description of the offender's crime(s), prior conviction history, prior sex offenses (both convictions and non-convictions), prior and current sexual deviancy treatment, mental health diagnosis and treatment, classes and treatment received while incarcerated, and information about where the offender intends to reside upon release.

3) The End of Sentence Review Committee's summary and recommendation for the level of community notification are forwarded to the local law enforcement agency where the offender intends to reside. The ultimate decision of the level of notification that will be applied to each offender lies with the police agency. Because of law enforcement's unique position, they are able to either mitigate or aggravate the risk level set by the committee.

4) The Community Protection Act also recommended that law enforcement create "methods of educating community residents at public meetings on how they can use the information in the notification document in a reasonable manner to enhance their individual and collective safety."[3] Most communities in Washington State regularly conduct these public meetings when sex offenders are being released into their communities.

By enacting these laws, the citizens of this state have created an effective system with multiple layers of oversight that insures the community's right to be informed and protected when sex offenders are released into their communities. It is this office's position that HB 1651 is necessary to also insure the protection of sexual assault survivors personal, confidential information, thus encouraging victims to continue to report these most heinous of crimes to police rather than remaining silent.

Ellen Hanegan-Cruse
Advocacy Services Coordinator
Office of Crime Victims Advocacy

2005 Legislative Session

This legislative session, advocates were apprehensive about the funds for victim services knowing that the Legislature was facing an enormous deficit. Overall, and despite some heart-wrenching losses, the victim service community fared well.

Budget Trends:
Despite some reductions in funding, our losses to crime victim advocacy programs were relatively minimal. However, we continue to urge and reiterate that even minimal cuts to domestic violence, sexual assault, and services to victims of child abuse, homicide, missing persons, trafficking, and others have devastating impacts in the lives of our community members.

Victim/survivor advocates are getting more creative. In a year when the overall state budget is in a negative balance, advocacy groups developed strategies to generate funding for services to victims.

Domestic Violence Education Fund:
The final bill ESHB 1314—Creating the Domestic Violence Prevention Account—provides for a $30.00 increase in filing fees for dissolutions, legal separations, and declarations of invalidity of marriage to be deposited into a newly created "Domestic Violence Prevention Account" in the DSHS budget, to increase funding for non-shelter based domestic violence services, including services for underserved communities and children who have witnessed domestic violence. It provides that $6.00 collected from the dissolution fees be retained in the county in which they were collected to support community-based domestic violence programs.[1]

Based on early estimates, the Office of Fiscal Management anticipates that $708,000 would be deposited annually into the state fund with $177,000 to be retained locally and earmarked for community-based domestic violence services. The courts can retain some of this local portion for administrative purposes.[2]

Keep Kids Safe License Plate
This bill authorizes the Department of Licensing to issue a special license plate displaying a symbol or artwork that recognizes efforts to prevent child abuse and neglect in Washington State. With ESHB 1097 and SB 5104, the Children's Trust Account was established. After reimbursing the state for the up-front costs of these plates, proceeds from this account can benefit private and public agencies identifying and establishing community-based services for the prevention of child abuse and neglect.[3] The estimated annual revenue is $121,548 for the first biennium, $266, 361 for the second biennium, and $309, 576 for the third biennium. Money from the account shall be dispersed by the Washington Council for the Prevention of Child abuse and Neglect at 10% to advertising costs, and 90% in the form of grants.[4]

"How does one get a license plate?" You may be asking. Based on the requirement of RCW 46.16.745 an organization sponsoring a special license plate must either 1) submit pre-payment of all start up costs associated with the creation and implementation of the special license plate in an amount specified by the department; or 2) submit an application and non-refundable fee of $2,000 and provide signature sheets that include at least 2,000 signatures from individuals who pledge to purchase the special license plates. The Washington Council for the Prevention for Child Abuse and Neglect collected signatures from 2,306 people.[5]

Domestic Violence Legal Advocacy
With a guaranteed cut to Byrne grant funds (now Justice Assistance Grant (JAG) funding on a federal level, our office entered the legislative session apprehensively. Knowing that all programs funding through Byrne could anticipate at least a 40% cut, we were concerned about how these cuts would trickle down to affect the community domestic violence legal advocacy funds.

With the help of some great advocating from domestic violence advocates, community members, and especially the Washington State Domestic Violence Coalition, State General Funds were added to the depleted Byrne funds. Legal advocacy funds still received a significant cut, which meant we could not preserve DVLA funding to all agencies funded FY 2004; however, our office was still able to offer at least one grant for legal advocacy services in each county throughout Washington.

Other Victim Services Money
All other State funds administered by our office survived this intense budget year. Sexual assault funding, violent crime victims funding, and money to support the Washington Association of Court Appointed Special Advocates and Guardian Ad Litem Programs remained at their current levels. The civil/legal funding once administered by OCVA was moved to the Administrative Office of the Courts and received a $3,000,000 increase. There was also budget decisions that affected the Crime Victims Compensation Program; for more information, check out page 11.

CVC Budget Update

Senate Bill 5993 appropriated $3,627,000 from the State General Fund to the PESA account to the Department of Labor & Industries for purposes of emergency funds for the Crime Victims Compensation Program (CVC). According to the Final Bill Report:

> Medical claims for the program have exceeded the forecasted amounts. Prior to September 2004, medical claims were reimbursed at workers' compensation rates. In September, CVC reduced reimbursement rates to DSHS/Medicaid rates for medical treatment and sexual assault forensic exams. Only in-patient hospitalization reimbursement rates were reduced to General Assistance Unemployable.

The Office of Crime Victims Advocacy is pleased that our Legislature prioritized this critical financial resource to victims who have little or no other alternatives to cover medical, mental health, and other related costs. The state budget also included a significant amount of State General Fund dollars in the L&I budget to support CVC. This amount, however, restores only the sexual assault forensic exam rates to those prior to September of last year. Reimbursement rates for medical and mental health services are still lower. Because of this, many medical and mental health providers throughout the state who were, temporarily, able to cushion the decreased rate have since dropped off from the provider list. At this time, CVC reports that 429 mental health counselors, sports medicine, occupational therapists, surgeons, anesthesiologists, family practitioners, and rheumatologists have asked to be removed from the CVC program.

The State of Washington has an ethical obligation to the preservation of public safety and the protection of its citizens. One of the aspects of sound public safety policies is the support of victims of crime in their full recovery. This means providing the necessary resources for victims to heal and continue as productive members of society.

While community based programs throughout the state provide advocacy services, the burden of medical costs, therapy, and other direct expenses cannot in good faith be left as a burden to the crime victim. The State of Washington acknowledged the injustice of that burden by the establishment of the Crime Victims Compensation program—an instrument of the state to provide for the medical treatment, therapy, and other direct and allowable expenses of qualified victims of crime.

Existing statutes and rules provide this structure to and are congruent with the philosophy and intent of compensation.

Historically, the programs expenditures fluctuated only minimally above or below the projected budget. If CVC had the ability to create a reserve account (capturing periodic unspent funds) to offset periodic over expenditures, this would result in programmatic and budget reliability.

Endnotes

Brain Development

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INFORMATION

The Office of Crime Victims Advocacy serves as a voice within state government for the needs of crime victims in Washington State.

PHONE: 1-800-822-1067
EMAIL: OCVA@CTED.WA.GOV
WEBSITE: WWW.OCVA.WA.GOV

Bev Emery
Managing Director
360.725.2886

Grace Call
VAWA/VOCA
Program Coordinator
360.725.2893

Stephanie Condon
Sexual Assault
Program Manager
360.725.2889

Chris Fenno
VAWA/VOCA
Program Coordinator
360.725.2896

Pearl Gipson
VAWA/VOCA
Program Manager
360.725.2891

Nicky Gleason
Program Coordinator
360.725.2887

Anita Granbois
VAWA/VOCA
Program Coordinator
360.725.2892

Ellen Hanegan Cruse
Advocacy Services
Program Coordinator
360.725.2890

Yvonne Kibler
Secretary
Administrative
360.725.2888

Ann Novakowski
Sexual Assault
Program Coordinator
360.725.2901

Stephanie Pratt
Sexual Assault
Program Coordinator
360-725-2899

Mary Soderquist
Sexual Assault
Program Coordinator
360.725.2875

Endnotes, continued

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Topic ideas for future issues may be sent to the address below or e-mail ocva@cted.wa.gov.

Office of Crime
Victims Advocacy
Department of Community, Trade
and Economic Development
P.O. Box 48304
Olympia, Washington 98504-8304

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